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(Opinion filed after order vacating first opinion.)

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

P.J.L.,	
Plaintiff and Respondent,	E070116
v.	(Super.Ct.No. FAMMS1700693)
GARY PECK,	OPINION
Defendant and Appellant.	

APPEAL from the Superior Court of San Bernardino County. John W. Burdick, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Dismissed.

Gary Peck, in pro. per., for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant and appellant Gary Peck appeals the grant of a restraining order issued pursuant to the Domestic Violence Prevention Act (Family Code, § 6200) (DVPA order). The DVPA order provided he needed to keep 100 yards away from plaintiff and respondent P.J.L. Peck and P.J.L. had been involved in a romantic relationship but P.J.L. ended the relationship sometime at the end of 2017. Peck continued to contact her, take

photographs of her home and put items in her mailbox. P.J.L. obtained a temporary restraining order and a hearing was conducted on the permanent restraining order. P.J.L. was granted the one-year DVPA order after a hearing on February 13, 2018; the DVPA order expired on February 13, 2019, at midnight.

Peck insists the trial court erred by granting the restraining order because it failed to make detailed findings of fact by rejecting or refusing to consider his evidence; the denial of the admission of his evidence violated his due process rights; and the restraining order was not supported by sufficient evidence. P.J.L. did not file a respondent's brief. We conclude since the restraining order expired on February 13, 2019, and there is no information that P.J.L. renewed the order or that there may be a recurrence of the controversy between the parties, the appeal is moot.

FACTUAL AND PROCEDURAL HISTORY

A temporary restraining order against Peck in favor of P.J.L. was granted on October 27, 2017, and a hearing was set for the permanent restraining order. Peck failed to provide this court with P.J.L.'s request for a restraining order or any of the evidence presented by P.J.L. in support of the DVPA order. [1] He also did not provide his filed response to the request for the DVPA order. Peck did request that the clerk's transcript include evidence not filed or admitted by the trial court, and declarations that were filed by him—but the record does not support that the trial court considered or admitted the evidence.

[1] The date of the filing of the request for the DVPA order is based on the entry in the register of actions.

The hearing on the permanent restraining order was held on February 13, 2018. P.J.L. and Peck were present in court. The trial court stated that according to the request for the DVPA order, Peck was an unwanted "paramour." He kept coming to P.J.L.'s house taking photographs and left "rock monuments." P.J.L. agreed these were the reasons for her request for a restraining order. P.J.L. also sought to produce a postcard from Peck, which she had received the day before. P.J.L. read the postcard into evidence as follows: "Dear [P.J.L.], just letting you know that the declaration page you sent was received . . . [y]ours truly . . . Gary Peck." The trial court confirmed with P.J.L. that her main complaint was that Peck was stalking her. P.J.L. stated she did not think he would stop unless there was a restraining order. Peck continued to try to contact her even after the temporary restraining order was issued.

The trial court asked Peck for his response. He insisted he sent her a postcard to acknowledge service of the notice of hearing and documents. The trial court asked if Peck was stalking P.J.L. He denied it and asked to submit a written statement. The trial court agreed to read the statement.[2] The trial court noted that Peck was seeking to have P.J.L. withdraw the request for a restraining order. The trial court asked Peck if he was denying he made rock monuments in P.J.L.'s backyard. Peck denied making the monuments. He indicated he understood their relationship was over. He insisted he sent a letter to her advising her he was aware the relationship was over.

[2] The record is not clear as to what statement the trial court read.

P.J.L. denied she received such a letter. She had received, on November 12, 2017, a package in her mailbox containing photographs of her house and car, in addition to copies of emails she had blocked. She also received a letter in which he accused her of being unstable. She had blocked him from her social media and email. Despite blocking him, he came to her house and left copies of the blocked messages in her mailbox.

Peck claimed he had been in front of P.J.L.'s house after she broke up with him because he wanted to take a photograph of a tree at her house for sentimental reasons, but had not actually taken the photograph. Peck tried to contact her by leaving copies of the blocked messages in her mailbox to find out the reason she terminated their relationship and for "closure." The trial court wanted to know why he continued to follow P.J.L. around even though she ended the relationship; Peck denied he followed her around.

Peck admitted he tried to get P.J.L. to respond to him for four months as to why she terminated their relationship and she failed to respond. She finally filed the request for a restraining order. The trial court understood that Peck wanted closure but did not understand why he continued to bother P.J.L. when she told him to leave her alone. He responded, "She never really said 'I don't want you around' and she never really said 'I don't want to give you closure.' " Peck was fine with having no contact with P.J.L. The trial court advised P.J.L. that it appeared Peck understood he needed to stay away from her and that a restraining order was not necessary. P.J.L. disagreed because Peck had come on her property in November 2017, and sent her a disturbing email (which the trial court did not review).

The trial court noted that issuing a restraining order was a "big deal" and that it was not certain the conduct here rose to the level of a restraining order. P.J.L. reiterated that Peck was stalking her and would not leave her alone. The trial court ruled, "I'm going to grant the restraining order. It's going to be good for one year. [¶] Sir, you're to stay away from her and her house for the next year." Peck objected reiterating he was not stalking P.J.L. The trial court ruled that Peck had been served.

The restraining order was issued on February 13, 2018, and was only to be effective for one year, expiring at midnight on February 13, 2019. Peck was ordered to stay at least 100 yards away from P.J.L. and her home.

On March 7, 2018, Peck filed his notice of appeal. Peck also submitted a notice designating the record on appeal where he requested several documents that were not admitted by the trial court, and do not appear to have been reviewed by the trial court.

DISCUSSION

Based on the record before this court, the appeal is moot.[3]

Family Code Section 6320, subdivision (a) provides: "The court may issue an . . . order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, . . . harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming

[3] P.J.L. did not file a response in this court. However, the court may examine mootness on its own motion. (*City of Hollister v. Monterey Insurance Company* (2008) 165 Cal.App.4th 455, 479.)

within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members." That order, within the discretion of the court, can be extended up to five years if requested within three months before the expiration of the orders. (Family Code, § 6345.)

We note that the restraining order involved here expired on February 13, 2019. "[A] case becomes moot when a court ruling can have no practical effect or cannot provide the parties with effective relief." (*Lincoln Place Tenants Association v. City of Los Angeles* (2007) 155 Cal.App.4th 425, 454.) " 'If relief granted by the trial court is temporal, and if the relief granted expires before an appeal can be heard, then an appeal by the adverse party is moot.' " (*City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1079.)

" 'It is well settled that an appellate court will decide only actual controversies and that a live appeal may be rendered moot by events occurring after the notice of appeal was filed. We will not render opinions on moot questions or abstract propositions, or declare principles of law which cannot affect the matter at issue on appeal.' " (*Building a Better Redondo, Inc. v. City of Redondo Beach* (2012) 203 Cal.App.4th 852, 866.)

A court has discretionary authority to decide moot issues when "the case presents an issue of broad public interest" or when, despite the happening of a subsequent event, "a material question remains for the court's determination." (*Environmental Charter High School v. Centinela Valley Union High School District* (2004) 122 Cal.App.4th 139, 144.) Here, the issues on appeal are "fact-specific issues that are unlikely to recur and

thus does not justify our exercise of discretion to resolve moot questions." (*Building a Better Redondo, Inc. v. City of Redondo Beach*, *supra*, 203 Cal.App.4th at p. 867.) This case does not involve an issue of public interest and there are no material questions that remain.

A third discretionary exception allows a court to address a moot issue when the same controversy is likely to recur between the parties. (*City of Hollister v. Monterey Insurance Company*, *supra*, 165 Cal.App.4th at p. 480.) This case does not fall within the above-mentioned discretionary exception because there is nothing in the record before this court that P.J.L. sought an extension of the restraining order. (*Harris v. Stampolis* (2016) 248 Cal.App.4th 484, 495-496 [since the restraining order was renewed, the appeal of the original restraining order was not moot because a finding that insufficient evidence supported the harassment in the original restraining order could provide the defendant relief on the renewal].) Moreover, P.J.L. and Peck were not married and did not have children, so no further family court or dependency proceedings would occur that would prejudice Peck.

The issue on appeal has been rendered moot by the expiration of the restraining order and nothing in the record supports P.J.L. sought a renewal. As such, since we cannot provide Peck effective relief, we dismiss the appeal as moot. Moreover, even if the appeal was not moot, Peck failed to provide an adequate record to support his claim.

"A granting or denial of injunctive relief is generally reviewed by the appellate court based upon the abuse of discretion standard. [Citation.] This standard applies to the grant or denial of protective order under the DVPA. [Citation.] In reviewing the

evidence, the reviewing court must apply the 'substantial evidence standard of review,' meaning ' "whether, on the entire record, there is any substantial evidence, contradicted or uncontradicted," supporting the trial court's finding. [Citation.] "We must accept as true all evidence . . . tending to establish the correctness of the trial court's findings . . ., resolving every conflict in favor of the judgment." ' " (*Burquet v. Brumbaugh* (2014) 223 Cal.App.4th 1140, 1143.)

"[A] party challenging a judgment has the burden of showing reversible error by an adequate record." (*Ballard v. Uribe* (1986) 41 Cal.3d 564, 574.) Where the party challenging the judgment fails to provide an adequate record as to any issue raised on appeal, the issue must be resolved against that party. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295-1296.)

Here, the request for a DVPA order, and, we presume, an accompanying declaration and evidence, was not provided to this court by Peck. It is impossible for this court to determine what documents the trial court relied upon that were submitted by P.J.L., and whether P.J.L. presented sufficient evidence to support the trial court's order. We understand that Peck is representing himself, but "[p]ro. per. litigants are held to the same standards as attorneys." (*Kobayashi v. Superior Court* (2009) 175 Cal.App.4th 536, 543.) As such, even if the DVPA order had not expired prior to the resolution of this

appeal, defendant failed to meet his burden of showing reversible error by an adequate record.[4]

DISPOSITION

The appeal is dismissed as moot. Peck is to bear his own costs on appeal. (Cal. Rules of Court, rule 8.278(a)(5).)

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MILLER
Acting P. J.

We concur:

FIELDS
J.

MENETREZ
J.

[4] Prior to oral argument, and after this court provided him with the tentative opinion, Peck sought to dismiss his case. We have already found that it should be dismissed as moot.